

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

RICARDO GONZALES, #61371-180,

Petitioner,

v.

MICHAEL MUKASEY, et al.,

Respondent.

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Civil Action No. **3:08-CV-0730-L**
(Crim. No. 5:05-CR-0561-XR)


ORDER

Before the court is Gonzales's Petition for Writ of Habeas Corpus, filed February 27, 2008 in the District of Columbia. On April 28, 2008, the case was transferred to the Northern District of Texas and referred to Magistrate Judge Wm. F. Sanderson, Jr. Magistrate Judge Sanderson entered Findings, Conclusions and Recommendation of the United States Magistrate Judge ("Report") on May 20, 2008. No objections to the Report have been filed.

This motion is filed pursuant to 28 U.S.C. § 2241. Petitioner contends, among other things, that the trial court lacked jurisdiction over the place where the cause of action arose and over the alleged prohibited conduct, that the trial court misapplied federal law, and that he received ineffective assistance of counsel. Magistrate Judge Sanderson found that the relief sought by Petitioner is more appropriately requested by application under 28 U.S.C. §2255 because he seeks to attack the validity of his federal conviction and the legality of his sentence. Magistrate Judge Sanderson also found that relief under section 2255 is not available to Petitioner because his direct criminal appeal is pending. Magistrate Judge Sanderson further found that habeas relief under the savings clause of section 2241 is premature. Having reviewed the motion, file, record, and the Report in this case, the court determines that the findings and conclusions are correct. The

magistrate judge's findings and conclusions are therefore **accepted** as those of the court. Accordingly, the court **denies** Gonzales's Petition for Writ of Habeas Corpus and **dismisses** this case **without prejudice**.

It is so ordered this 23rd day of June, 2008.


Sam A. Lindsay
United States District Judge